



**Gitau & 2 others v Mungai & 2 others (Civil Appeal E36 of 2020)
[2024] KEHC 14518 (KLR) (13 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14518 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL E36 OF 2020
DO CHEPKWONY, J
NOVEMBER 13, 2024**

BETWEEN

**MARY NGENDO GITAU 1ST APPELLANT
ESTHER WANGARI KARIUKI 2ND APPELLANT
MARY NGENDO KARIUKI 3RD APPELLANT**

AND

**PETER GATONYE MUNGAI 1ST RESPONDENT
MARY WANGARI MBURU 2ND RESPONDENT
JANE NJAMBI KABUCHU 3RD RESPONDENT**

RULING

1. This matter is for hearing of the Notice of Motion application dated 16th August, 2024 wherein the Applicant is seeking for orders that:-
 - a. The security sum of Kshs. 200,000.00 deposited by the Appellants in this matter on 19th May, 2022 in court as security for the appeal be released to the Appellants through their advocates on record being Kang'ethe Waitere Co. Advocates for onward transmission to the Appellants.
 - b. Costs of the application be provided for.
2. The application is premised on the grounds set out on its face and Supporting Affidavit of Mary Ng'endo Gitau, the 1st Appellant on even date, the gist of it being that since the appeal herein was allowed with no orders to costs in favour of the Appellants, there will be no prejudice suffered by the Respondents since the said sum had been deposited as security for the appeal.



3. The application has not been opposed by the Respondents despite their being served with the same as evidenced by the Affidavit of Service dated 31st October, 2024 as there is no response filed or attendance by either of the Respondents and or their counsel.
4. In view of this, the Notice of Motion application dated 16th August, 2024 be and is hereby allowed in the following terms:-
 - a. The security of Kshs.200,000.00 deposited by the Appellants in court on 19th May, 2022 as security for the appeal be released to the Appellants through their Advocate, Kang'ethe Waitere & Co. Advocates for onward transmission to the Appellants forthwith.
 - b. No orders as to costs.

It is so ordered.

RULING DATED AND SIGNED AT KIAMBU THIS 13TH DAY OF NOVEMBER , 2024.

D. O. CHEPKWONY

JUDGE

In the presence of:

M/S Mutanyi holding brief for Mr. Ng'ethe counsel for Appellant

No appearance for and by the Respondent

Court Assistant - Martin

